

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IRIS KITCHEN,

Plaintiff,

vs.

DEVELOPMENTAL SERVICES OF
NEBRASKA, INC., AUTISM CENTER OF
NEBRASKA, INC., and OMNI
BEHAVIORAL HEALTH,

Defendants.

8:20CV8

ORDER

This matter is before the Court on plaintiff's motions for default judgment against defendant Omni Behavioral Health, [Filing No. 196](#), Autism Center of Nebraska, [Filing No. 197](#), and against Developmental Center of Nebraska, [Filing No. 198](#).

Motions for Default Judgment

When a party has failed to plead or otherwise defend against a pleading listed in [Fed. R. Civ. P. 7\(a\)](#), entry of default under [Fed. R. Civ. P. 55\(a\)](#) may be made by the clerk of court. Once the clerk of court has entered default, the court may issue a default judgment, which is appropriate when "a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise..." [Fed. R. Civ. P. 55](#); [Weitz Co., LLC v. Mackenzie House, LLC](#), [665 F.3d 970, 977 \(8th Cir. 2012\)](#).

The Court has reviewed each of the motions for default. Plaintiff contends the defendants have “failed to plead or otherwise defend.” The Court finds otherwise. First, the plaintiff has failed to properly file a motion for clerk’s entry of default against these defendants. [Fed. R. Civ. P. 55\(a\)](#). Second, the defendants have each filed responses in this case. Third, there are no grounds alleged by the plaintiff that supports these motions against any of the defendants. The Court finds the motions are frivolous and will deny the same.

THEREFORE, IT IS ORDERED THAT Plaintiff’s motions to dismiss, Filing Nos. 196, 197 and 198, are denied.

Dated this 2nd day of May, 2022.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge